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PORTA, D EXAMINER

B5M1/0723

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ART UNIT	PAPER NUMBER
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2506

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DATE MAILED: 07/23/96

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined. ☐ Responsive to communication filed on \_\_\_\_\_ ☒ This action is made final.  
A shortened statutory period for response to this action is set to expire THREE (3) month(s), — days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☒ Notice re Patent Drawing, PTO-948.
- ☒ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of informal Patent Application, Form PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐ \_\_\_\_\_

Part II SUMMARY OF ACTION

- ☒ Claim(s) 1-30 are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ has been canceled.
- ☐ Claim(s) \_\_\_\_\_ is allowed.
- ☒ Claim(s) 1-30 are rejected.
- ☐ Claim(s) \_\_\_\_\_ is objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawing(s) under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawing(s) are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction(s), filed on \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation).
- ☐ Acknowledgment is made of the claim for priority under 35 USC 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

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**Part III DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 11-13, 15-17, and 27-29 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Peschmann et al. Peschmann et al. disclose all of the elements of applicant's claimed invention.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

Claims 4-10, 14, 18-26, and 30 are rejected under 35 U.S.C. § 103 as being unpatentable over Peschmann et al.. Peschmann et al. explicitly disclose all of the elements of applicant's invention including a first "prescan" means to designate areas of suspicious materials and a second "material sensitive probe" for determining what materials actually are in those suspicious areas. Peschmann et al. further state that various techniques for determining materials not easily detected using X-ray transmission data can be employed. Official Notice is taken that all of the "forward scatter", "back scatter", "dual energy scan", and various "material sensitive probes" are well known in the package inspection art, and it would have been obvious to one of ordinary skill in the art to employ any of these techniques in addition to or in place of the disclosed probes in Peschmann et al. based on the substances desired to be detected by the system. One skilled in the art would be motivated by the explicitly stated versatility of Peschmann et al. in column 10, lines 49-61, to choose from any known technique to find a particular substance.

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**Conclusion**


3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pongratz et al. disclose a combination of measurement devices in a package inspection system.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner David P. Porta whose telephone number is (703) 308-4852.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

The Art Unit 2506 Facsimile number is (703) 308-7723. This number is for Art Unit 2506 papers only. Applicant is reminded that all "Draft" copies of correspondences should clearly be labelled as such.

dpp  
18 July 1996

  
DAVID P. PORTA  
PRIMARY EXAMINER  
GROUP 2500